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**Before The
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

In the Matter of:)	
)	
FCC Localism Task Force Announces)	RM-10803
Schedule of Hearings and Lists Full)	
Membership of Task Force)	
)	

COMMENTS OF REC NETWORKS

REC Networks ("REC") is a supporter of locally owned and diverse radio. REC currently operates several Internet only radio stations. REC also operates several websites including the original LPFM Channel Search Tool¹. REC Networks also represents the interests of independently owned Low Power FM ("LPFM") broadcast stations and their listeners. REC also follows issues that involve the availability of media in rural and underserved areas.

INTRODUCTION

REC is happy to hear that the Commission is finally looking into localism in broadcasting through the creation of the Localism Task Force². We feel that this look is many years too late. In these comments we will discuss the current nature of broadcasting, mostly radio and will offer some novel as well as what some may consider as radical changes to improve the broadcast landscape in America.

LOW POWER FM (LPFM) RADIO SERVICE

The Low Power FM (LPFM) service was intended to be a shot in the arm for the expansion of local community based radio. Unfortunately, due to the technical requirements to address decades old urban legends around alleged interference and then struck down even further by the National Association of Broadcasters' (NAB) attempt³ to turn every congressperson into a

¹ - <http://www.recnet.com/lpfminfo>

² - See "Chairman Powell Launches 'Localism in Broadcasting' initiative" - FCC News Release dated August 20, 2003.

³ - Testimony of the NAB before Congress as well as an audio CD that contained simulations of what alleged interference from LPFM stations operating on third adjacent channels might sound like.

broadcast engineer, the LPFM service has turned from a way that new urban voices can get on the air to a rural broadcasting service⁴. While we do not object to a rural broadcasting service, we feel that the LPFM service should also be urban in scope.

We recognize the fact that the dial is full in many areas. At the same time, we are also confused how in a major city like Los Angeles, translators that filed during the "Great Translator Invasion" window⁵ of March 2003 were able to find slots that were not made available to LPFM stations. We feel that this double standard between LPFM and translators must stop. From an interference standpoint, what is the difference between a translator running 53 watts with a directional pattern vs. an LPFM running the same exact facility?

If the Commission is serious about improving localism in the media, the first thing we must do is give the airwaves back to the people. This can be done by reserving spectrum for FM broadcasting that belongs to the people and can not be influenced by corporate owners (including large non-commercial owners such as Educational Media Foundation and Calvary Chapel).

Second Adjacent Channel protection to translators

The first thing that the FCC can do to open the door to localism is to remove the unnecessary requirement for LPFM stations to protect the second adjacent channel of translators. Once again we ask, what is the difference between the transmission coming from a translator versus a transmission coming from an LPFM?

If there is no outstanding technical reason why the second adjacent channel of translators must be protected, then it should not be required. Apparently the FCC found no interference issues otherwise translators would be required to protect the second adjacent channel of LP-100 stations⁶.

⁴ - Due to the requirement that LPFM stations must protect the third adjacent channel of full power FM and translator stations. See *"Making Appropriations for the Government of District of Columbia for FY 2001"* Pub. L. No. 106-553, 114 Stat. 2762 (2000).

⁵ - See *"FM Translator Auction Filing Window and Application Freeze"*. Report no. AUC-03-83-A (Auction No. 83), DA 03-359, released February 6, 2003.

⁶ - 47 CFR §74.1204(a)(4).

As we mentioned in our MITRE comments for MM Docket 99-25, there is no technical reason why LPFM should be required to protect translators while translators can operate on the second adjacent channel of an LPFM station. For this reason, REC is asking the Commission to amend the rules to allow an LPFM station to not be required to protect the second adjacent channel of a translator output.

Equal protection for LP-10 stations

REC recognizes that most urban areas have been deprived of LP-100 stations but some of these areas may be able to get LP-10 stations. LP-10 seems to have been created to be a "disposable" radio service. REC feels that this service is not disposable, but for some, a lifeline.

However, the current LPFM rules place LP-10 stations in a *sub-secondary* status to other secondary services including translators and even LP-100 stations.

We feel that the service that will be provided from an LP-10 from a community-based standpoint is the same as what is provided by the LP-100 stations. What makes an LP-10 less important than an LP-100 when it comes to spectrum priority? Even worse, what makes an LP-10 less important than a distant translator, who may be broadcasting an "imported" signal from over 2,000 miles away?

Even though an LP-10 filing window has not opened yet, the current status of the LP-10 service will make the service very unattractive for many organizations. It is one thing to be displaced by a full power local station, it's another thing to be at risk of displacement by a translator carrying an imported signal. Where is the logic here?

Bottom line, a local signal should have spectrum priority over a distant signal. If the FCC wishes to achieve additional localism in the LPFM service, they will append the rules to require a translator to protect LP-10 stations in the same way they protect LP-100 stations. In addition, an LP-100 station must protect an LP-10 station. This should not prevent an LP-10 station an opportunity to upgrade or to reach a universal settlement to go off the air to allow another LP-10 station to upgrade to LP-100.

If the FCC does not impose these additional protections, we expect the FCC to give full disclosure in all public notices that relate to all LP-10 filing windows that the LP-10 service is sub-secondary service and that an LP-10 station, including one that is established for years can be displaced by "another low power FM (LP-100) station" or by a translator rebroadcasting a non-local signal. This is in addition to displacement by a primary user.

Expansion of the FM broadcast band to 76-88 MHz (TV Channels 5 and 6)

A couple of decades ago, the AM broadcast band was expanded by 10 additional channels. These channels were originally assigned to certain AM broadcasters to alleviate interference issues.

If we wanted to expand sound broadcasting, we could look at spectrum that is not adjacent to the existing FM broadcast band. The problem is that a new technology of radio equipment would be required resulting in a "tri-band" radio resulting in a consumer hardship.

We can not use adjacent spectrum above the FM broadcast band as that is an international allocation for the aeronautical radionavigation service.

The adjacent spectrum below the FM broadcast band, 76-88 MHz, is already on the International Table of Allotments for the broadcasting service in Region 2.

The band from 76-88 MHz is used in Japan for FM broadcasting, therefore, receivers for this band have already been designed, built and marketed.

The FCC CDBS database shows a total of 11 DTV stations on Channel 5 (76-82 MHz) and 4 DTV stations on Channel 6 (82-88 MHz), two of which are in Alaska.

Many TV broadcasters can not transition to Channel 6 due to the protection requirements of DTV stations to NCE-FM stations in the reserved band (88-92 MHz). Actually, due to the propagation characteristics of the VHF Low Band (Channels 2 through 6), some are finding these channels undesirable for DTV.

REC feels that the public interest would be better served by opening up the 76-88 MHz spectrum to create 60 FM broadcast channels and have the potential of thousands of low power FM stations across the country.

For the non-commercial LPFM service, REC is recommending that the Channel 6 spectrum be used to create 30 additional channels (82.1 through 87.9). For Channel 5, REC is recommending the creation of a new "entrepreneurial" commercial broadcast service.

REC proposes that the LPFM service in the 82-88 MHz spectrum be a primary service with spectrum priority over LPTV and translators. DTV & Class-A stations would need to be transitioned to another channel.

For LPFM stations operating in Channel 6 spectrum REC recommends the following protections be afforded:

To LPFM stations operating in the 82-88 MHz band as well as to proposed commercial stations in the 76-82 MHz band.	Must protect co-channel and first adjacent.
To LPFM stations operating in the 88-108 MHz band	Even though LPFM stations in the 88-108 band are secondary, they will continue to be afforded protection from 82-88 MHz LPFM stations on co-channel and first adjacent.
To Full Power FM and Class D (Secondary) stations in the 88-108 MHz band	Must protect co-channel, first and second adjacent channels as well as IF.
To Translators in the 88-108 MHz band	Even though Translators in the 88-108 band are secondary, they will continue to be afforded protection from 82-88 MHz LPFM stations on co-channel and first adjacent channel as well as IF.
Foreign FM operations in the 88-108 MHz band	Must protect co-channel, first, second and third adjacent as well as IF per the international agreements.

REC recognizes that Canada and Mexico may choose not to remove all TV broadcasting from Channels 5 and 6 in the border area. We hope that the FCC will reach an agreement with these administrations for the operation of LPFM stations within a reasonable distance from the border⁷.

⁷ - For example, in the case of XETV Channel 6 in Tijuana, REC feels that LPFM stations as close as Los Angeles and Riverside Counties should be able to operate in the 82-88 MHz spectrum.

A new LP-250 service for rural areas

REC feels that in rural areas, there is a need to expand the maximum service area of LPFM stations in order to reach a sparsely populated audience. In the past, organizations such as the Amherst Alliance have recommended a 250-watt LPFM service for those in rural areas. A 250-watt service with a 30-meter antenna height would increase an LPFM's service area from 5.6km to 7km.

REC is recommending that the LP-250 service be created in both the regular 88-108 MHz (Secondary) broadcast band as well as in the 82-88 MHz primary LPFM band.

REC is recommending that the LP-250 service be limited in availability to areas that are at least 50 km⁸ from any point on the boundary of any Urbanized Area as defined by the US Census Bureau. LP-250 applicants will be required to make a showing that the proposed station meets this separation guideline.

Stricter ownership limits of LPFM stations

In light of the situations that happened in the first round of filing windows for LPFM, we need to explore the ownership guidelines.

First of all, if there is a requirement or desire to have at least 75% of the organization's board members within a certain distance to the antenna, we see absolutely no logic in allowing an organization to be able to own and operate more than one LPFM station, especially in light of rules that would not allow an organization to have more than one LPFM station in the same community⁹. REC is afraid that when the LP-10 as well as the future round of LP-100 windows open up, we will see organizations filing multiple applications in multiple locations for LPFM stations. Where is the localism there? This will turn LPFM into an over glorified translator service.

⁸ - Based on a 30 dBu (50,10) contour from the LP-250 station. For this computation, all LP-250 stations will be considered maximum facilities.

⁹ - 47 CFR §73.855(a)

REC feels that the LPFM rules be amended to restrict an organization to **one** LPFM station nationwide. REC recognizes that some LPFM applicants may face challenges similar to full power licenses where terrain or the overall layout of the desired service area may play a factor in the LPFM station's ability to provide service. REC feels that an LPFM station should be allowed to construct a small number of translators. Such translators may be placed within 24km of an LP-100 or within 16km of an LP-10 station¹⁰. In no case shall an LPFM translator exceed the predicted field strength of the primary station¹¹. This translators should be allowed to use any means possible (except satellite) to be fed by their primary station.

During the last window, we had also seen a lot of "local chapter" filings. Organizations such as Calvary Chapel, M & M Community Development, Iglesia de Cristo Miel and others filed applications throughout the nation with the name of the organization and the city name placed on the end.

The way we see it, whether you go the McDonalds of Southern California, McDonalds of New York or McDonalds of Chicago, you will be able to get the same Big Mac.

REC feels that an LPFM station should not be licensed to a local "chapter" of a national organization, especially one with full powered broadcast licenses and a network of translators.

COMMERCIAL RADIO BROADCAST ISSUES

Treating broadcast stations like "real estate"

There was a time in our lives that a broadcaster was supposed to "serve the public as a public trustee". REC now feels that statement would be "serve the shareholders as a property".

It makes us cringe every week when we review the Broadcast Actions and Broadcast Applications public notices. Not because of all of the "deals" but of the names of the licensees.

¹⁰ - Within 28km of a proposed LP-250 station.

¹¹ - An LP-10 station should not be allowed to have a 100 watt translator.

There was a time when more and more licensees had names such as "(City name here) Broadcasting" or were just in the name of the individual owner. What upsets us now is when we see licensee's names with words like "investments", "properties", "acquisition", etc.

Now we realize that other industries such as the retail and grocery industry have gone from "mom and pop" stores to Super Wal Marts. In this environment, a "mom and pop" still has a chance to compete. They can lease space in another building or purchase land to build their store.

The radio spectrum is different. The spectrum is much more finite and isolated and unfortunately and once all of the space is developed, there's nowhere else to expand. Because the broadcast spectrum is so finite, individual and small group owners are being offered a "deal of a lifetime" to sell out to the big owners.

Going back to our McDonalds, reference again, if you think about it, Clear Channel has provided a "chain store" attitude to radio. In the case of Clear Channel, it's format. Many Clear Channel markets have a "KISS-FM" in their market with a logo similar to their pet acquisition KIIS-FM in Los Angeles. Yes there may be a main studio with a few local employees and local management, but the major shots are still called from headquarters. This would be similar to a Super Wal Mart that hires local employees, has a store manager and a bulletin board to post information about your lost pet.

As three members of the Commission heard in Charlotte, even though Clear Channel may claim "localism", their localism is only skin deep. Not only do they program the same formats in many of their markets, but services such as show prep (I point out the "cyclist" issues that suddenly appeared in many major markets), the music play-lists, the promotion of concerts and even the acquisition of broadcast related services from outside vendors.

More individual owners in the broadcast license industry also creates more individual owners in other industries related to radio.

The FCC and Congress can help by not only reducing the limits of station ownership but by introducing new methods to encourage entrepreneurs who wish to construct a single station,

especially in areas where there are no current allotments. We will discuss a method for this later on in the document.

Making FM stations "unattractive" to corporate owners

Some FM broadcast stations, especially those that are licensed to rural communities but put a considerable signal into an urbanized area. Many of these stations then ignore their city of license when it comes to things such as accessibility to station activities¹², access to the main studio and the ability to purchase advertising at a rate that would be comparable to the rural market.

REC feels that an FM station should really be licensed to serve its city of license and no further. We also feel that for commercial stations, the requirement that the station place a city grade (70 dBu [50,50]) contour over the entire city of license should be changed to a requirement of a service contour (60 dBu [50,50]) over the entire city of license. 60 dBu works for the non-commercial educational service, why not the commercial service?

REC also that the extra protection given to Class B and B1 stations should be eliminated. All Class B stations should be regraded to C2 and all B1 stations should be regraded to C3. This will allow more smaller stations to come up as well as possibly open additional space for future LPFM services.

The FCC should discontinue all "grandfathered" super-power arrangements. Stations of a particular license class should be required to operate within their class parameters. With the redefinition of the minimum service area from 70 dBu to 60 dBu, this could be possible.

The FCC then can consider reducing the classes and powers of many FM stations to meet the 60 dBu requirement. For example, most Mount Wilson stations licensed to Los Angeles are currently showing as Class B but are on grandfathered powers. These powers cause the station to exceed Class C. From Mount Wilson, in order to reach the farthest western portions of the

¹² - Such as participation in contests where a long distance phone call must be made from the city of license to the main studio location to participate.

San Fernando Valley as well as the southern tip of San Pedro, which is all within the city of Los Angeles, a service contour of 52km is required. If FM stations on Mount Wilson were required to reduce power to Class C2 levels, this means that these stations would go to levels under 1 kW. These reductions will still result in an FM station serving their city of license, which in turn will reduce the amount of radio frequency radiation being emitted from the mountain. (We do note that some Mount Wilson broadcasters were recently fined¹³ from the FCC for excessive radiation).

Easier Access to Filing Objections

In the materials that the Commission is releasing as a result of the Localism Task Force, there is information on how to file an informal objection or petition to deny against the renewal of a license. REC feels that right now, communicating with the Commission is impossible unless you are either in the Washington DC area or you can send a FedEx or UPS anytime you want to file. In a public notice¹⁴ from 2001, the FCC has presented a way to send an e-mail to a mailbox. After two years of using this, we have found that filings sent to this mailbox are not always being processed in a timely fashion.

REC feels that the Commission modify CDBS to allow for the public's electronic filing of Informal Objections. Those with a CDBS password can also file Petitions to Deny through the system¹⁵.

In addition, it would be in the public interest for the FCC to display on their website, copies of Informal Objections and Petitions to Deny against a certain application. These can include filings that were made on paper.

FM Table of Allotments

The FM Table of Allotments¹⁶ was created to assure a fair method of distributing commercial FM channels to each community. In order to be considered a community, it must meet certain

¹³ - See *"In the matter of AM FM Radio Licenses LLC, et al"*, File number EB-02-DV-439. FCC 03-258.

¹⁴ - See Public Notice 01-345.

¹⁵ - Those with a CDBS password are most likely to be a licensed broadcaster or someone with advanced broadcast knowledge and would be more likely to file a Petition to Deny vs. an Informal Objection.

criteria such as business, schools, churches and local government. This is done to prevent FM stations being allotted to any speck on the map. It must be a bona-fide community. REC supports this criteria.

While we support this aspect of the Allotment policy, there are several allotment policies that are very contrary to supporting localism.

Allotment policy favors larger facilities - The current allotment policies encourage those who petition for allotments to ask for largest facility available for a particular channel. In counterproposals where more than one mutually exclusive allotment proposal is reviewed, the population served by each proposal is considered when determining which one would be more in the public interest. The main problem with this criteria is the Commission not only reviews the population served by an allotment with the city of license but within the entire service area. This includes areas within an urbanized area. REC feels that FM allotments facing counterproposals should be based solely on benefits to the city of license.

Allotment policy supports removing rural stations into metropolitan areas - The current allotment policy allows a licensee to propose an allotment that is mutually exclusive with their existing allotment¹⁷. Such a request is not subject to competitive applications. What has been happening is that stations are using this loophole to move their rural stations into metropolitan areas. For example here in Arizona, the licensee of an FM station in Nogales filed a petition to move their station to Vail, a suburb of the metropolitan Tucson area¹⁸. Another Tucson situation that is currently pending is requesting a rural allotment be changed to the campus of a military base well within the urbanized area (claiming "first aural service"). REC feels that if you want to support localism, this policy must be discontinued.

No ability to electronically file comments on allotment proceedings - These days, many proceedings have been "opened to the general public" through the implementation of the

¹⁶ - 47 CFR §73.202

¹⁷ - See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, FCC Rcd 3870 (1989), recons granted in part, 5 FCC Rcd 7094 (1990).

¹⁸ - MM Docket 00-31.

Commission's Electronic Comment Filing System (ECFS). However, since Table of Allotment proceedings are declared "restricted", they can not be filed through the ECFS. We can not understand why Table of Allotment proceedings require service and why they can not be filed by ECFS. Virtually anyone who is a party in an allotment proceeding has a computer and internet access. Just like with other proceedings, they can review the comments on-line or at the Commission's Research Information Center. REC feels that in this modern time, we do not need to have to "spoon feed" comments to the petitioner in allotment cases. REC feels that these proposed allotments will impact a community and therefore the community has the right to comment without having to spend \$10 or more on UPS or Federal Express¹⁹ to send in a page or two of comments. REC is asking that the Commission reclassify Table of Allotment Proceedings (as well as amendments to the Air to Ground tables) as "*permit but disclose*" with no required service and allow comments to be filed through the ECFS²⁰.

The future of the "Tuck" Analysis - The Tuck Analysis²¹ was intended to provide a policy for determining if an allotment is intended to serve an urbanized area. As well intentioned as *Tuck* appears to be, it is fatally flawed. The Tuck Analysis takes into consideration various factors to determine a community's "independence" from the urbanized area²². It looks at various issues from local newspapers to how many residents from the community commute to the urbanized area. Take Pahrump, Nevada. This community is very separated from the Las Vegas urbanized area. It would have a pristine Tuck Analysis. Yet with that, broadcast stations such as KXTE can use the Pahrump city of license to program to the Las Vegas metro and completely ignore Pahrump²³. REC feels that the FCC should abandon the current *Tuck* policy and establish a new

¹⁹ - The reason for having to use the alternate delivery services is due to the security issues surrounding the U.S. Postal Service (USPS) and the very slow handling time of Commission mail that is received through the USPS.

²⁰ - In cases where an existing licensee or permit holder is being asked to change channel or class as a result of the allotment, that party should continue to be served by the party who is petitioning the change.

²¹ - See *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

²² - These include the extent that people work in the community, newspapers and other media, how community leaders and local residents perceive the community identity, local government, ZIP code and separate government listings, commercial establishments and health facilities and a separate and distinctive advertising market from the urbanized area. Not all communities must meet all criteria.

²³ - The first comment on an allotment case was to add a second aural service as a Class-A in Pahrump. Mostly due to the frustration out of the abuse of the city of license by the licensee of Channel 298 in Pahrump.

policy that very closely scrutinizes not only the city of license but also the choice of transmitter site and what impact that can have on the urbanized area. REC feels that FM allotments should specify transmitter sites and reference coordinates that are as close to a community center as possible and should only be allowed the class necessary to provide a 60 dBu signal over the community.

Out of Town petitioners - Every so-often, we see an influx of petitions to amend the Table of Allotments. In this modern day of computers, all someone needs to do is run a computer program and any "holes" will show up. All someone needs to then do is file a petition for rulemaking and then the channel is assigned. Not only that, it also locks that channel for any future LPFM use. Many of these petitions come from individuals and organizations that are not local to the proposed location. REC feels that the FCC needs to control the number of frivolous allotments by imposing the following procedures on filing petitions to amend the FM Table of Allotments:

- Impose a filing fee. This must be paid prior to the petition being docketed. REC suggests a filing fee of \$1,000 with the exception of the new Class A1 (see below), which would be \$500.
- Require that proponent of an allotment reside within 250 km of the proposed allotment.
- Require a notarized statement that the proponent has physically visited the community being considered. The notary used should be from that community or a very nearby community.
- Limit a petitioner to a maximum of three (3) open Allotment proceedings at one time.

Establish a new "A1" rural service class

To provide rural communities with their first commercial service and to assure that allotments will not be used to program to the urbanized area while ignoring the rural city of license. This power level is similar to the LP-1000 service proposed by Rodger Skinner in RM-9242.

Information about our proposed Class "A1":

- Class A1 is not considered LPFM but full power broadcast.
- Maximum 1kW at 60m HAAT (14.1 60 dBu contour)
- This is a primary service that must protect other primary services on the co-channel, first, second and third adjacent as well as IF channels.
- All FCC rules that pertain to Class A stations apply to A1.
- For the non-reserved band (92-108 MHz), the FM Table of Allotments must be amended to add an A1 channel to a community.
- New A1 allotments will not be allowed within 50 km of any point on a boundary of an Urbanized Area as defined by the Census Bureau. (40 dBu [50,10] contour)

- For the first 5 years of implementation, new A1 allotments will only be allowed for communities that currently have no other FM aural service allotments.
- Class A stations in the non-reserved band that are operating at facilities less than A1 can be regraded to A1 (even within 50 km of an urbanized area) if another petition for rulemaking requests a channel that would be properly spaced to an A1 where it is not to an A. This is similar to the policy that downgrades a Class C to a C0.

NEW ENTREPRENEURIAL LOW POWER BROADCAST SERVICE

As we mentioned in these comments already, REC feels that the TV Channel 5 & 6 spectrum can be better used for low power broadcasting. Where there will be about 20 DTV stations, there can be thousands of low power broadcasting stations.

REC's opposition to a commercial LPFM service is when it is at the expense of the existing non-commercial LPFM service. However, REC will support commercial LPFM on dedicated spectrum as long there are strict rules to assure that licensees are local in nature and a local service is proposed.

Therefore, REC is proposing that the Commission consider a new commercial "Entrepreneurial Low Power" (ELP) radio service to operate on 30 channels in the Channel 5 (76-82 MHz) spectrum.

Technical - REC proposes that the ELP has flexibility to allow for station classes that can fit in small and medium sized communities. Transmitters must be Part 73 verified. The proposed station classes are similar to LPFM with some additions:

Station Class	Power Limits	60 dBu Contour
ELP-10 (E1)	10w @ 30m	3.2 km
ELP-50 (E2)	50w @ 30m	4.7 km
ELP-100 (E3)	100w @ 30m	5.6 km
ELP-250 (E4)	250w @ 30m	7.0 km

Allotment of Channels - Channels for the ELP will be assigned and maintained in a Table of Allotments. The proponent of the allotment must reside within 30 km of the community for which the ELP allotment is being applied for. ELP station class is limited to what is absolutely necessary to cover the community based on a centrally based transmitter location. For example, if the distance to the community limits from the central location is more than 3.2 km and less than 4.7 km, then a petition can be filed for the ELP-50 service. Lower classes can be applied

for. All criteria for a community would apply just like the FM rules with the exception that a community that is a suburb of a larger city that has its own identity (as recognized by a separate city name by the post office) can have its own allotment. The limits of the community will be considered the ZIP code boundaries that are assigned to this distinctive community name. Under this example, communities such as Van Nuys (within Los Angeles city limits) would be able to get their own station. Van Nuys would not be eligible for an allotment under current FM rules. For the first 5 years of the introduction of the service, ELP allotments will only be made available to communities that currently do not have a full power FM broadcast allotment. REC proposes that the FCC requires a fee of \$500 to file for an allotment.

Protection - ELP stations must protect other ELP stations as well as 82-88 MHz LPFM stations on the co-channel and first adjacent channel.

Awarding of Licenses - After the allotment is created, a filing window will be announced at a later time. At that time, applications for a construction permit can be filed. Applications that are mutually exclusive will be required to be settled by auction as required by federal law.

Qualification for Ownership - REC proposes that ELP ownership be made available to individuals, partnerships and corporations similar to commercial rules. Owners who are individuals must reside within 30 km of the station during the term of the license. In the case of partnerships, corporations and similar arrangements, at least 75% of the partners or board members must reside within 30 km of the station. Non-commercial educational entities will not be permitted to be the licensee of an ELP station.

Cross-ownership - ELP applicants and licensees may not hold any attributable interest in any other broadcast station including AM, FM, TV, International Broadcast Station, LPFM, LPTV, Class A or broadcast translator station.

Regulatory Fees - As with any commercial service, REC recommends that the ELP will have an annual regulatory fee.

Retransmission/Translators/Boosters - ELP stations can not be retransmitted on any translator, booster, LPTV or full power broadcast station. ELP stations can may relay the signal of another

ELP station on an unlimited basis between 10PM and 6AM local time. At other times, an ELP may only retransmit another ELP station for an aggregated period of no more than 4 hours. Exceptions apply if the retransmission is for emergency information where life or property is in jeopardy. Notwithstanding these rules, an ELP station can present "network" programming as long as the station provides a minimum of 8 hours per day (aggregated weekly) of local programming²⁴.

EAS - Due to the small coverage area, ELP stations should have EAS requirements similar to LPFM stations.

Main Studio Rule - Unlike LPFM, the main studio rule applies to ELP. The main studio must be located within the community to which the station is licensed to. No main studio waivers will be granted.

As we have mentioned, receivers of all types to tune this band are already being manufactured²⁵. Since this is a new band and that existing stations will not "migrate" to this band, it will not create a hardship on listeners being able to receive existing stations but these stations will be available to those who purchase the radio that can receive them.

NON-COMMERCIAL BROADCAST ISSUES

"Distant translators"

The FM Translator service is intended to provide FM services into areas that because of terrain, would not be able to receive quality FM service. Commercial FM translators must be fed over the air by the primary FM station or by another translator.

For non-commercial FM translators, there is a loophole in the law²⁶ that permits a translator to be fed by microwave or satellite in lieu of receiving it directly over the air. As a result, some

²⁴ - "Local Programming" for this example is defined as programming originated from the studio of the ELP station that is presented live and is not retransmitted on any other station or carried on any network. Local programming may contain pre-recorded programming content such as music and news reports.

²⁵ - This is the FM broadcast band in Japan.

²⁶ - 47 CFR §74.1231(b).

licensees have established hundreds of translators, many in or adjacent to urbanized areas to retransmit the same primary station, sometimes from thousands of miles away.

This method of broadcasting is the biggest stab in the back to localism as these "imported" signals preclude local LPFM stations.

We are also concerned that these distant translators are not able to provide local EAS information to it's listeners as these stations are not required to carry EAS equipment²⁷.

REC requests that the FCC look at rules that will:

- Define a "Distant Translator" as a translator whose key station is located in a different state and at least 400 km away from the translator.
- For translators that repeat another translator or multiple translators in a chain, they will be considered distant translators if the distance from the translator in question and the key station that the station is ultimately rebroadcasting is more than 400km and in a different state.
- Distant translators must be equipped with EAS equipment similar to an LPFM station.
- A distant translator is subject to displacement by an LPFM station if a showing is made by the LPFM applicant that no other channel is available for use by the LPFM station. The displaced translator would be permitted to file a minor change application to move to another channel.
- For all new translators, only permit satellite or microwave feeds if the translator does not meet the criteria of a "distant translator".

Ownership Limits of NCE Stations

With all of the focus on Clear Channel and Viacom when it comes to media concentration in the radio broadcast bands, some forget about the media concentration that is taking place in the NCE arena.

In this case, it's not a case where a single organization is taking over every possible channel in a particular market but just the fact that a single organization can have NCE presence in many different areas.

The NCE service is to provide educational institutions (schools) with the ability to broadcast. If §73.503(a)(1) was followed to the letter, many organizations that have NCE-FM stations would not be eligible for them.

²⁷ - Since it was originally assumed that translators would not be thousands of miles away from their primary station and the primary station would be in a better position to provide EAS.

Since there are no ownership limits on NCE stations, some organizations have taken things to extreme. While the commercial arena has Clear Channel and Viacom, the non commercial arena has Educational Media Foundation, a California based organization that has over 100 full power licenses and construction permits across the country. Another organization, Calvary Chapel of Twin Falls, Idaho has two full power stations that are being retransmitted over 500 translators from Hawaii to Key West, Florida. In addition, Calvary, under the name "CSN International" is starting to construct additional full power NCE-FM stations.

If you look at translators, you will find that 1/3rd of all licenses, applications and permits are held by 8 organizations:

		Appli- cations	Const. Permits	Licenses	Total
Total Translators	100.0%	764	605	3,599	4,968
Calvary Chapel of Twin Falls	11.5%	148	92	331	571
Educational Media Foundation	4.7%	56	32	145	233
Family Worship Center Church	4.3%	37	130	48	215
Faith Pleases God Church	2.9%	142	0	0	142
Family Stations, Inc.	2.4%	5	4	110	119
Bible Broadcasting Network	2.3%	7	1	107	115
Pensacola Christian College	2.3%	29	24	60	113
American Family Association	2.1%	1	4	100	105
Total of the Top 8 Owners	32.5%	425	287	901	1,613

As of October 2002. This does not include the applications filed by many of these organizations during the March 2003 "translator invasion" window.

For full power FM, two major owners Educational Media Foundation (EMF) had 105 stations and American Family Association (AFA) had 49 stations in October 2002²⁸.

REC finds this mega ownership of NCE-FM stations as a complete disregard for the spirit of the Communications Act and an effort for a small number of groups to expand their message into as many areas as possible at the detriment of localism and public safety. This is underscored by the main studio and satellite waivers that these stations are granted.

²⁸ - We note that these figures were computed for our comments on 2002 on Media Concentration in MB Docket 02-277. We note that AFA has divested from many of their full power FM stations. Stations have been transferred to EMF and other organizations.

REC calls on the Commission to look at this serious issue the same way they look at media ownership issues in the commercial arena.

In our comments in 02-277, we proposed:

"... immediate ownership caps on non-commercial stations. Non-commercial entities should be limited to 40 stations. Of those 40 stations, 30 of them (75%) must be in the same state. This will permit large statewide networks such as Minnesota Public Radio to operate their statewide networks consistent with the public interest.

Entities that over this limit should be ordered to reduce 25% of the stations over the limit within the first year, and then 25% of these stations over a four year period until they are in compliance."

When it comes to issues like this, we say again, a local signal should have priority over a distant signal.

TELEVISION ISSUES

REC Networks does not get too involved in issues related to localism in television. There are many other organizations that address this subject. We do get involved in television issues when they impact radio broadcast issues.

One of our primary concerns is the viability of channels 2 through 6 for digital television. We hear from many of those in the industry who have concerns about using these channels and how the use of these channels may not be in the public interest due to performance issues.

We feel that now may be the time to remove channels 2 through 6 from the core television channels and reassign them to other services. As we have mentioned elsewhere in these comments, channels 5 and 6 should be specifically assigned to sound broadcasting to create 60 new LPFM channels (30 commercial and 30 non-commercial). The spectrum of channels 2-4 (54-72 MHz) can be assigned to the amateur radio service as well as various low power license free usages. We also feel that only very low power wireless devices be allowed in the Channel 3 (60-66 MHz) spectrum as this is a channel that is frequently used by consumer television navigation devices.

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To make up for the displacements, we wonder in the age of DTV, a mode that is supposed to be "spectrum efficient", why should licensees be afforded a full 6 MHz per channel? The FCC should initiate a Notice of Inquiry to investigate to see if a channel can be reduced to 4.5 MHz. If Channels 2-6 (as well as 37) are removed from the TV core spectrum, you have 294 MHz. These can be made into 4.5 MHz channels with some surplus that can go to other services:

	Current 6 MHz		Proposed 4.5 MHz	
2	54	60	174.0	178.5
3	60	66	178.5	183.0
4	66	72	183.0	187.5
5	76	82	187.5	192.0
6	82	88	192.0	196.5
7	174	180	196.5	201.0
8	180	186	201.0	205.5
9	186	192	205.5	210.0
10	192	198	210.0	214.5
11	198	204	509.0	513.5
12	204	210	513.5	518.0
13	210	216	518.0	522.5
14	470	476	522.5	527.0
15	476	482	527.0	531.5
16	482	488	531.5	536.0
17	488	494	536.0	540.5
18	494	500	540.5	545.0
19	500	506	545.0	549.5
20	506	512	549.5	554.0
21	512	518	554.0	558.5
22	518	524	558.5	563.0
23	524	530	563.0	567.5
24	530	536	567.5	572.0
25	536	542	572.0	576.5
26	542	548	576.5	581.0
27	548	554	581.0	585.5
28	554	560	585.5	590.0
29	560	566	590.0	594.5
30	566	572	594.5	599.0
31	572	578	599.0	603.5
32	578	584	603.5	608.0
33	584	590	614.0	618.5
34	590	596	618.5	623.0
35	596	602	623.0	627.5
36	602	608	627.5	632.0
38	614	620	632.0	636.5
39	620	626	636.5	641.0
40	626	632	641.0	645.5
41	632	638	645.5	650.0
42	638	644	650.0	654.5
43	644	650	654.5	659.0
44	650	656	659.0	663.5
45	656	662	663.5	668.0
46	662	668	668.0	672.5
47	668	674	672.5	677.0
48	674	680	677.0	681.5
49	680	686	681.5	686.0
50	686	692	686.0	690.5
51	692	698	690.5	695.0

Under this plan, the spectrum 470-509 MHz can be assigned to the private land mobile services on a nationwide basis. Public safety services at 509-512 MHz (which are paired with 506-509

MHz) can be migrated to a different part of the band. Surplus spectrum that can be assigned to other services is at 214.5-216.0 (Amateur service?) and 695-698 MHz (the 695-698 segment can be given to public safety to make up for the 509-512).

We acknowledge that this concept is very far-fetched however we need to look at a method of clearing some television spectrum for other services. It may be possible to find a method of clearing channels 2-6 after the conclusion of the DTV transition.

PART 15 BROADCASTING

In addition to the licensed services that we have discussed, we feel that the FCC should revisit the current Part 15 rules on low power devices in the bands 525-1705 kHz and 76-108 MHz.

Currently, there are a small number of "part 15" broadcast stations. These stations, mostly on AM, provide local news, views and information. Because of the current 100 mw limitation on these stations, their coverage areas are extremely limited. REC feels that these operations be expanded on AM to allow for up to a 500 mw to 1 watt power limit. This will allow these stations to serve their very localized neighborhoods and not interfere with full power broadcasters.

On FM, we would like to see a process to allow for increased field strengths when the transmitter and antenna is fully enclosed in a building and that the signal that radiates outside the building meets certain field strength guidelines. This will allow for organizations to be able to do in-house broadcasting using regular radio equipment. Applications can include conventions and sports arenas. For FM, we are proposing no changes to field strengths on antennas located outside.

LOW POWER AM SERVICE

REC is aware of a petition for rulemaking that has been filed by Frederick Bumgartner in June 2003. Recently, a copy of that petition has been placed in this docket. This proposal calls for new Low Power AM (LPAM) stations in the expanded AM band²⁹.

²⁹ - 1610 to 1700 kHz.

Although REC agrees that to creation of an LPAM service, we do have some issues with the Bumgartner proposal.

The Bumgartner proposal calls for the creation of a 100 watt service in rural areas where there are no villages, cities or towns within 5-miles of the transmitter with a combined population of 20,000³⁰ and a 30-watt service for areas that have populations over 20,000. REC disagrees with this computation method for determining the rural class of service. REC feels that it is more appropriate to use a simpler definition of rural area. The higher class of service should be assigned to any areas where the predicted service contour of the proposed 100 watt station would not overlap with a urbanized area as defined by the US Census Bureau.

The petition goes on to allow for new LPAM stations to be constructed with no regard for existing LPAM licensees claiming that new applicants should reach agreements with existing licensees or go to frequency coordinators or even local government to resolve the issue³¹. REC supports the use of frequency coordinators in the low power services as we had suggested in our original comments. The proposal as written basically states "I now have an LPAM license that interferes with yours, you must make way for me.". We would support a method where a prospective LPAM applicant can go to an FCC recognized LPAM frequency coordinator and request a channel assignment. The coordinator, the existing licensee and the applicant can work together to come up with a resolution **before** a construction permit for the new station is granted. In fact, we would make it a requirement that all LPAM applications be accompanied by a certificate of coordination by the recognized coordination body for LPAM in that area.

The technical issues that are raised in the petition, REC mirrors support of the technical comments made by the Amherst Alliance LPAM Team in their comments³².

³⁰ - Bumgartner petition at 2.

³¹ - Bumgartner petition at 4.

³² - See Amherst Alliance AM Team comments, "Specific Concerns" at 1, 2 and 3. "Suggestions" at 7 and 9.

AMATEUR RADIO SERVICE

Another supporter of localism in radio is the Amateur Radio Service. Although it is not considered a broadcast service, it is designed to enhance the safety of life. When considering any spectrum management decisions, we must take into consideration the Amateur service and what it contributes. We must also remember the spectrum that has been lost to commercial interests.

CONCLUSION

In these comments, we have provided many options for improving localism in the media. These include making changes to the LPFM service to make it more attractive to local organizations, make changes to the commercial FM rules to improve more public involvement when more commercial stations are being considered, easier access to filing informal objections on broadcast applications (both for construction and renewal), new broadcast services that encourage local ownership, substantial changes in the NCE service that will regulate multiple ownership of stations and other spectrum changes that will support these initiatives.

REC's goal is to give the airwaves back to the people and to allow the people to determine the destiny of the airwaves. This can only be done if broadcasting and broadcasting regulation is more accessible to the public.

Respectfully Submitted,

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